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Recent Amendments to the *Municipal Elections Act, 1996* by the *Municipal Elections Modernization Act, 2016* and a Comparison of Provincial Legislation

Presented by Eric Davis



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Agenda

1. What's Changed?

2. Questions?

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What's Changed?

How the *Municipal Elections Modernization Act, 2016* amended the *Municipal Elections Act, 1996*

Elections Calendar

- ***Before*** – period for filing nominations begins on January 1st in the year of the election and ends on the 2nd Friday in September (old Nomination Day)
- ***Now*** – period for filing nominations begins on May 1st in the year of the election and ends on the 4th Friday in July (Nomination Day)
- **Time for Filing Nomination on Nomination Day** – still between 9 a.m. and 2 p.m.
- ***Provide Copy of Voters List*** – Not until September 1st
- ***Election Day*** – still the 4th Monday in October
- ***Beginning of Term*** – November 15th (used to be December 1st) – exception for 2018 election (December 1, 2018 to November 14, 2022)

Key Points

- **Eligibility to Run for Office**
  - ***Before*** – no endorsement required
  - ***Now*** – nomination must be endorsed by at least 25 persons who are eligible to vote in the municipality (a person may endorse more than one nomination)

- **Eligibility to Vote**
  - ***Before*** – set out in section 17 of the MEA
  - ***Now*** – Minister authorized to make regulations governing who is, and is not, considered to be a "tenant" for the purpose of determining eligibility to vote in a local municipality

Key Points (cont'd)

- **Ranked Ballot Elections**
  - ***Before*** – first past the post
  - ***Now*** – ranked ballots allowed (s. 41.1 of the MEA) also O. Reg. 310/16
  - **Number of municipalities who have adopted ranked ballot** – One (City of London), at least as far as I know

- **Advertising by Candidates During an Election Campaign**
  - ***Before*** – nothing
  - ***Now*** – candidates are required to identify themselves on their election campaign advertisements & municipalities are authorized to remove election campaign advertisements in case of a contravention
  - "**election campaign advertisement**" means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting or supporting the election of a candidate

Key Points (cont'd)

- **Advertising by Third parties During an Election Campaign**
  - ***Before*** – Nothing
  - ***Now*** – A framework is established for third party advertisements that appear during an election campaign

    - Only individuals, corporations and trade unions who are registered as third parties in a municipality can incur expenses for third party advertisements that appear during the restricted period for such advertisements

    - "restricted period" = earliest day when permitted to file a notice of registration as a registered third party to close of voting on voting day

    - Spending limits are imposed – formula – s. 88.21 of the MEA

  - "**third party advertisement**" means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing,
    - (a) a candidate, or
    - (b) a "yes" or "no" answer to a question referred to in subsection 8(1), (2) or (3) of the MEA

Key Points (cont'd)

- **Campaign Contributions to Candidates**
  - ***Before*** – Section 66, 70 to 74, and 82
  - ***Now*** – All those sections have been repealed – now see sections 88.8 to 88.11 and 88.15 to 88.18 of the MEA
  - Also, please read our paper on the topic – goes into much greater detail

- **Contributions to Registered Third parties**
  - ***Before*** – nothing
  - ***Now*** – Sections 88.12 to 88.17 of the MEA govern contributions to registered third parties in relation to third party advertisements
  - Under section 88.36 of the Act, the Clerk of a municipality is required to review the contributions that are reported on the financial statements of a registered third party to determine whether any contributions appear to have exceeded the contribution limits

Key Points (cont'd)

- **Campaign Expenses of Candidates and of Registered Third Parties**
  - ***Before*** – Sections 67 and 76 imposed restrictions on candidates' campaign expenses
  - ***Now*** – Those sections have been repealed – replaced by sections 88.19 and 88.20 of the MEA
  - For registered third parties, see sections 88.19 and 88.21

- **Financial Statements of Candidates and Registered Third Parties**
  - ***Before*** – Sections 78, 79 and 79.1 regarding financial statements and auditor's reports
  - ***Now*** – Those sections have been repealed – replaced by sections 88.25 and 88.30 to 88.32 of the MEA
  - Also, please read our paper on the topic – goes into much greater detail

Key Points (cont'd)

- **Administration of Elections**
  - ***Before*** – Section 12.1 required the Clerk of a municipality to have regard to the needs of electors and candidates with disabilities
  - ***Now*** – Section 12.1(2) of the MEA states: "The clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before voting day in a regular election."
  - Also, regarding advance voting (s. 43 of the MEA), Clerk now establishes timing, not Council
  - Finally, in relation to recounts (s. 56 of the MEA), section 56(3) states: "A municipality may, by by-law, adopt a policy with respect to the circumstances in which the municipality requires the clerk to hold a recount of the votes cast in an election."

New MEA Provisions

- **Declining to Vote**
  - Section 52(5) of the MEA:
    - "If an elector returns a ballot to the deputy returning officer and indicates that the elector is declining to vote, the elector is no longer entitled to vote and the deputy returning officer shall immediately write the word "declined" upon the ballot."
  - Section 52(6) of the MEA:
    - "The deputy returning officer shall keep a record of the number of electors who indicate that they are declining to vote."

- **Access to Residential Premises**
  - Section 88.1 of the MEA:
    - "No person who is in control of an apartment building, condominium building, non-profit housing cooperative or gated community may prevent a candidate or his or her representative from campaigning between 9 a.m. and 9 p.m. at the doors to the apartments, units or houses, as the case may be."

New MEA Provisions (cont'd)

- **Display of Signs at Residential Premises**
  - Section 88.2(1) of the MEA:
    - "No landlord or person acting on a landlord's behalf may prohibit a tenant from displaying signs in relation to an election on the premises to which the lease relates."
  - Section 88.2(2) of the MEA:
    - "No condominium corporation or any of its agents may prohibit the owner or tenant of a condominium unit from displaying signs in relation to an election on the premises of his or her unit."
  - Section 88.2(3) of the MEA:
    - "Despite subsections (1) and (2), a landlord, person, condominium corporation or agent may set reasonable conditions relating to the size or type of signs in relation to an election that may be displayed on the premises and may prohibit the display of signs in relation to an election in common areas of the building in which the premises are found."
  - Section 88.2(4) of the MEA:
    - "Despite subsection (3), no landlord, person, condominium corporation or agent may prohibit the display of signs in relation to an election in common areas of the building if space in the building is being used as a voting place. "

New MEA Provisions (cont'd)

- **Contributions – Exception re: Making Information Public**
  - Section 88.8(9) of the MEA:
    - "For greater certainty, if a municipality or local board makes information available to the public on a website or in another electronic format, the provision of the information does not constitute a contribution to a candidate."
  - Section 88.8(10) of the MEA:
    - "Without limiting the generality of subsection (9), the information referred to in that subsection includes the following:
      - 1. The phone number and email address provided by the candidate in the nomination filed under section 33.
      - 2. A hyperlink to the candidate's website."

Questions?

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